

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 2 1934 NUMBER 211

Washington, Saturday, October 30, 1937

WAR DEPARTMENT.

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF CERTAIN BRIDGES ACROSS THE ILLINOIS WATERWAY AT PEKIN, PEORIA AND JOLIET, ILLINOIS.

SUPPLEMENTAL TO RULES AND REGULATIONS TO GOVERN THE OPERATION OF THE DRAWBRIDGES CROSSING THE MISSISSIPPI RIVER AND ALL ITS NAVIGABLE TRIBUTARIES AND OUTLETS.

The Law

The River and Harbor Act of August 18, 1894, contains the following Section:

SEC. 5. That it shall be the duty of all persons owning, operating, and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of War the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less than one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of War, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any violation thereof shall be punished as hereinbefore provided.

The Regulations

In pursuance of the foregoing law, special regulations are prescribed to govern the operation of the following bridges across the Illinois Waterway:

Mile	Bridge	Vertical clearance closed	
		Above high-water	Above present low water
152.9	Margaret Street Highway, Pekin, Ill.	9.3	28.4
153.0	Peoria Terminal Company Railroad (C. R. I. & P. Ry.), Pekin, Ill.	2.4	21.6
162.2	Illinois Terminal Railroad, Peoria, Ill.	16.1	134.2
162.2	Toledo, Peoria and Western Railroad, Peoria, Ill.	— 7	17.4
162.3	Lower Highway Bridge, Peoria, Ill.	13.7	131.8
287.3	McDonough Street Highway, Joliet, Ill.	16.5	16.5
287.6	Chicago, Rock Island & Pacific Railway, Joliet, Ill.	9.4	9.5
287.9	Jefferson Street Highway, Joliet, Ill.	16.4	16.6

¹ For 80-foot width of channel.

When a vessel reaches a distance of about one-half mile from the Peoria Terminal Company Railroad bridge at Pekin, Illinois; the Toledo, Peoria and Western Railroad bridge at Peoria, Illinois, and the Chicago, Rock Island and Pacific Railway bridge, at Joliet, Illinois, a call signal of 3 long blasts of a whistle, horn, or siren, or three loud and distinct strokes of a bell shall be sounded if the clearance requirements of the vessel are such that opening of the adjacent bridges at these respective cities is unnecessary; and if the draw is to be opened immediately, the acknowledging signal by the bridge operators on these railroad bridges shall be the same as the call signal; if the draw can not be opened immediately, or if opened must be closed immediately, four or more short and rapid blasts of a whistle, horn, or siren, or four sharp and rapid strokes of a bell to be repeated at regular intervals until acknowledged by the vessel must be sounded.

These regulations shall take effect and be in force on and after the date of approval hereof, and all regulations or parts of regulations applying to the above-named bridges in conflict therewith are hereby revoked to take effect on that date.

Approved, October 19, 1937.

[SEAL]

HARRY H. WOODRING,
Secretary of War.

FRANK C. BURNETT,
*Brigadier General,
Acting The Adjutant General.*

[F. R. Doc. 37-3175; Filed, October 29, 1937; 9:39 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

OPINION

[D53-FD]

In the Matter of the Application of Wheeling Steel Corporation for Exemption from the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

[D31-FD]

In the Matter of the Application of the Emperor Coal Company for Exemption from the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

[D30-FD]

In the Matter of the Application of Consumers Mining Company for Exemption from the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

The Wheeling Steel Corporation and its subsidiaries, Emperor Coal Company and Consumers Mining Company, have



Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 5 cents; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

TABLE OF CONTENTS

Board of Governors of the Federal Reserve System:	Page
Extension and maintenance of credit by brokers, dealers and members of national securities exchanges:	
Amendment No. 10.....	2783
Supplement amended.....	2783
Loans by banks for purchasing or carrying stocks registered on a national securities exchange, amendment to supplement to Regulation U.....	2784
Department of Agriculture:	
Agricultural Adjustment Administration:	
Agricultural conservation program, 1937, insular region, Bulletin No. 101, Puerto Rico, Amendment 2.....	2781
Order and notice of termination of license for gum-turpentine and gum-rosin processors, License No. 37.....	2781
Bureau of Animal Industry:	
Notice of hearing, designation of Cincinnati, Ohio, as a market subject to live poultry amendment to Packers and Stockyards Act.....	2781
Notices under Act to regulate interstate and foreign commerce in livestock, etc.:	
Hocking Valley Livestock Sales Co., Lancaster, Ohio.....	2781
Stickelman, E. C., doing business as Stickelman Livestock Commission Co., Gothenburg, Nebr.....	2782
Twin Falls Commission Co., Twin Falls, Idaho.....	2782
Bureau of Entomology and Plant Quarantine:	
Pink bollworm quarantine regulations, modification.....	2782
Department of the Interior:	
National Bituminous Coal Commission:	
Applications of Wheeling Steel Corp., Emperor Coal Co., and Consumers Mining Co., opinion in the matter of.....	2775
Findings as to the facts and conclusions; orders:	
Consumers Mining Co.....	2779
Emperor Coal Co.....	2779
Wheeling Steel Corp.....	2777
Ruling regarding contracts for sale of bituminous coal to Governmental agencies.....	2780

TABLE OF CONTENTS—Continued

Federal Power Commission:	Page
Order postponing hearing:	
Southern California Edison Co., Ltd., and San Joaquin Light and Power Corp.....	2784
Order setting hearing, applications of:	
Public Service Electric and Gas Co.....	2784
Foreign-Trade Zones Board:	
Gold and silver in foreign-trade zones, order relative to handling of.....	2784
Interstate Commerce Commission:	
Employees and subordinate officials to be included within term "employee" under Railway Labor Act.....	2785
Motor carrier rates in middle Atlantic States, order concerning.....	2786
Consolidation with Investigation and Suspension Docket No. M-205, Rates over Freight Forwarders, Inc.....	2787
Securities and Exchange Commission:	
Notice of and order for hearing in the matter of:	
United Telephone and Electric Co.....	2787
Orders to show cause and for hearings in the matter of:	
Jumbo Extension Mining Co., common capital stock, par value 10 cents, assessable.....	2787
Rosetta Mines Co., common capital stock.....	2788
Stop order in the matter of:	
Metropolitan Personal Loan Co.....	2789
War Department:	
Illinois Waterway at Pekin, Peoria and Joliet, Ill., regulations governing the operation of certain bridges.....	2775

made application to the Commission for exemption of coal produced by them from operation of Section 4 of the Bituminous Coal Act of 1937, basing such claims for exemption upon subsection (1) of Part II of said Section 4, which provides:

(1) The provisions of this section shall not apply to coal consumed by the producer or to coal transported by the producer to himself for consumption by him.

Under the averments of the applications filed, as supported by uncontradicted evidence adduced at the hearings, there is presented to the Commission the question whether coal produced by one corporation and utilized or consumed by another corporation is entitled to exemption under subsection (1) in a case where the producing corporation is a wholly owned subsidiary of the consuming corporation and such production and consumption of coal is incident to the manufacture of steel products.

In providing for regulation of interstate commerce in coal, Congress in subsection (1) of the Act has defined an exception covering coal in certain cases where, but for that exception, the coal would be subject to all the regulatory provisions of Section 4 of the Act. In the cases now before the Commission we are called upon to determine how broadly that exception is to be construed.

Clearly, under recognized rules of construction of statutes any producer of coal seeking to have his commerce in coal relieved of regulation by virtue of subsection (1) assumes the burden of proving by clear and convincing evidence that such coal is entitled to exemption under the terms of that subsection. 59 Corpus Juris 1089; *Thomas E. Basham Co. v. Lucas*, 21 Fed. (2d) 550.

It is urged by applicants that the term "producer" as used in subsection (1) should be broadly construed so as to include a corporation producer of coal which is wholly owned subsidiary of the consuming corporation.

It is not the generally accepted rule of construction in the case of statutory exceptions or exemptions to broaden or

extend the exception or exemption by any liberal interpretation. Exceptions, as a general rule, should be strictly, but reasonably, construed; they extend only so far as their language fairly warrants, and all doubts should be resolved in favor of the general provision rather than the exception. Where a general rule is established by statute with exceptions, the court will not curtail the former nor add to the latter by implication, and it is a general rule that an express exception excludes all others. 59 Corpus Juris 1092; Lewis' Sutherland on Statutory Construction, Section 494; *Hopkins v. U. S.*, 235 Fed. 95.

Nor does the construction proposed by applicants appear to conform to the intention and purpose of Congress in enacting the Bituminous Coal Act of 1937. The act came not as an emergency measure but as a result of years of study of coal industry problems by Congress. In the records of the courts in the case of the *Appalachian Coals v. U. S.*, 288 U. S. 344, as well as in the case of *Carter v. Carter Coal Company*, et al., 298 U. S. 238, the many complex factors involved in the production and distribution of bituminous coal were clearly outlined and from these records, as well as from the records of hearings before its Committees, Congress undoubtedly determined that partial or incomplete regulation of the industry would not be effective. Consequently, under Section 4-A of the Act specific authority was vested in the Commission to extend the operation of the regulatory provisions to phases of intrastate commerce in coal under certain conditions. Congress also anticipated possible avoidance or evasion of regulation by the use of affiliate or subsidiary relationships between producers and consumers of coal and therefore provided (subsection (g), Part II, Section 4) that "The price provisions of this Act shall not be evaded or violated by or through * * * the use of subsidiaries, affiliated sales or transportation companies or other intermediaries or instrumentalities."

And we do not find in the Act any definition or recognition of the so-called "captive" relationship between producers and consumers, typified by the relationship existing in the present cases.

In its interpretation and administration of the Bituminous Coal Act of 1937 this Commission cannot ignore conditions actually existing in the coal industry or disregard possible consequences of an interpretation of subsection (1) such as is contended for by applicants. As the Supreme Court of the United States so aptly said in the case of the *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, Advance Opinions, 81 L. Ed. 563: "We are asked to shut our eyes to the plainest facts of our national life and to deal with the questions of direct and indirect effects in an intellectual vacuum. * * * We have often said that interstate commerce itself is a practical conception. It is equally true that interference with that commerce must be appraised by a judgment that does not ignore actual experience."

We find no expressed national policy which encourages concentration of natural resources in the hands of large industrial consumers and certainly it was not the intention of Congress to weaken the effectiveness of the Act by any encouragement of unregulated relationships between producers and consumers of coal.

The purposes of the Act are clear: to safeguard producers against unfair competitive practices, to protect the industry from the cycles of price cutting and wage reductions which too frequently have occurred in the past, to insure to the consumer adequate and dependable supplies of coal at reasonable prices by restoring and maintaining a state of fair competition in the industry.

Certainly the need for effective regulation should have greater weight than any possible effect of a failure to grant this exemption to consuming industries which organize themselves on a national basis and extend their activities not only into fields of manufacturing and distribution but into the more remote fields of production of raw materials.

In construing the language of subsection (1) the Commission therefore concludes that its inclusion in the Act was

not an expression of intention on the part of Congress to create a class of unregulated coal producers but was a recognition of the legal principle that there being no commerce in the case of coal produced and consumed by the same legal entity, such production and consumption could not be dealt with under the power to regulate commerce.

For these reasons the Commission rules that the exemption provided for under subsection (1), Part II, Section 4 of the Act cannot be applied to the case of coal produced by a corporation which is a wholly owned subsidiary of the consuming corporation.

Accordingly, the application of the Wheeling Steel Corporation is hereby granted as to all coal consumed by the applicant which is produced by the applicant at its mine located at Beech Bottom, West Virginia, and known as applicant's "Beech Bottom" mine, and the applications of the Emperor Coal Company and the Consumers Mining Company are denied and proper orders are directed to be entered in the respective cases.

[SEAL]

NATIONAL BITUMINOUS COAL COMMISSION.

By C. F. HOSFORD, Jr., *Chairman*.

PLEAS E. GREENLEE,

THOMAS S. HAYMOND,

JOHN C. LEWIS,

WALTER H. MALONEY,

C. E. SMITH,

PERCY TETLOW,

Commissioners.

[F. R. Doc. 37-3158; Filed, October 28, 1937; 12:13 p. m.]

[D53FD]

IN THE MATTER OF THE APPLICATION OF WHEELING STEEL CORPORATION FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4-A OF SAID ACT

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes", (Public No. 48, 75th Congress, 1st Sess.), known as the Bituminous Coal Act of 1937, Applicant, Wheeling Steel Corporation, on the 28th day of June, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, all commerce in bituminous coal produced by it and its alleged subsidiary corporations, the Consumers Mining Company, a corporation organized and existing as such under and by virtue of the laws of the state of Pennsylvania, and Emperor Coal Company, a corporation organized and existing as such under and by virtue of the laws of the state of Kentucky. The application is filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption requested under the second paragraph of Section 4-A of the Act, Subsection (1) of Section 4 of the Act, and upon the further broad ground that commerce in bituminous coal of the kind and character engaged in by Applicant is excluded from the provisions of the Act.

The Commission, pursuant to the provisions of said Act, by its Orders of Assignment and Reference dated the 16th day of August, 1937, assigned and referred said matters to Charles S. Mitchell, an examiner of the Commission, for hearing, submission of proposed findings of fact and recommendation of appropriate order in the premises. On the 7th day of September 1937, the Commission by its Order reassigned said matter to Robert C. Patterson, an examiner of the Commission, for hearing, submission of proposed findings of fact and recommendation of appropriate order in the premises.

Due and reasonable notice of said hearing having been given all interested parties, said cause came on for hearing before said examiner of the Commission, in accordance with the aforesaid Orders of the Commission, on the 8th day of September 1937, at Washington, D. C. At said hearing testi-

mony and other evidence was introduced by Carl O. Schmidt, Counsel for Applicant, in support of the allegations of the Application, the testimony and other evidence adduced at the hearing being duly recorded and filed with the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission upon the record and the Commission having duly considered same and being fully advised in the premises, makes this its finding as to the facts and its conclusion drawn therefrom:

FINDINGS OF FACT

Applicant, Wheeling Steel Corporation, is a corporation organized and existing as such under and by virtue of the laws of the state of Delaware with its general offices located at Wheeling, in the state of West Virginia. Applicant is primarily engaged in the business of manufacturing iron and steel products for sale and is qualified to do business in the states of Ohio and West Virginia. Applicant, in carrying on its business, owns and operates iron and steel plants located at Steubenville, Portsmouth, Yorkville, and Martins Ferry, in the state of Ohio and at Beech Bottom and Benwood, in the state of West Virginia, and is a member of the Bituminous Coal Code.

Applicant consumes a great quantity of bituminous coal in the manufacture of its iron and steel products at the aforementioned plants. A part of the coal consumed by Applicant is produced by Applicant at a mine wholly owned and operated by Applicant. This mine is located at Beech Bottom, in the state of West Virginia. All of the coal produced by Applicant at this mine is consumed by Applicant, with the exception of that sold to Applicant's employees.

Consumers Mining Company, a member of the Bituminous Coal Code, is a corporation organized and existing as such under and by virtue of the laws of the state of Pennsylvania and is engaged primarily in the business of producing bituminous coal and owns and operates a mine for such purpose located at Harmarville, in Allegheny County, Pennsylvania, said mine being known as the "Harmar" mine. Said corporation has its own individual officers; operates its own mine; pays its own taxes; employs and pays its own labor by its own check; owns in fee the mine in question, including all of its facilities, coal lands, and the coal lying in place; keeps an individual set of books; maintains an individual bank account; carries its assets upon its books in its own name; maintains an individual office at its mine; and in the years 1931-1933 produced and sold coal commercially, making a profit and depositing funds realized as profit in a bank to its own account.

That the coal produced by Consumers Mining Company at said Harmar Mine is delivered to and consumed by Wheeling Steel Corporation, with the exception of that sold to and consumed by the employees of Consumers Mining Company, the coal delivered to and consumed by Wheeling Steel Corporation being transported in interstate commerce.

Emperor Coal Company, a member of the Bituminous Coal Code, is a corporation organized and existing as such under and by virtue of the laws of the state of Kentucky and is engaged primarily in the business of producing bituminous coal and owns and operates a mine for such purpose at Freeburne, in the state of Kentucky, said mine being known as the "Freeburne" mine. Said corporation has its own individual officers; operates its own mine; pays its own taxes, including the Social Security taxes, employs and pays its own labor by its own check; carries its own Workmen's Compensation Insurance; owns in fee the mine in question, including all of its facilities, coal lands, and the coal lying in place; keeps an individual set of books; maintains an individual bank account; carries its assets upon its books in its own name; maintains an individual office at its mine; and sold coal commercially until June 1937, making a profit thereon and declaring dividends.

That the coal produced by Emperor Coal Company at said Freeburne mine is delivered to and consumed by Wheeling Steel Corporation, with the exception of that sold to and

consumed by the employees of Emperor Coal Company, the coal delivered to and consumed by Wheeling Steel Corporation being transported by rail in interstate commerce.

We conclude:

1. That upon the record in this case, it is clear that Applicant owns and operates the mine located at Beech Bottom, Brooke County, West Virginia. That it produces the coal produced at said mine and consumes the entire output of same, with the exception of that sold to its employees. It is also clear under the record in this cause that Applicant and Consumers Mining Company are separate and distinct corporations and that Applicant is not the producer of the coal produced at the Harmar mine, the producer of said coal being the Consumers Mining Company. It is also clear under the record in this cause that Applicant and Emperor Coal Company are separate and distinct corporations and that Applicant is not the producer of the coal produced at the Freeburne mine, the producer of said coal being Emperor Coal Company.

2. That under the record in this cause, with the exception of that coal sold by Applicant to its employees, all the coal consumed by Applicant which is produced by Applicant at its mine located at Beech Bottom, West Virginia, and known as Applicant's "Beech Bottom" mine, falls within Subsection (1) of Section 4 of the Bituminous Coal Act of 1937 and is exempt from the provisions of Section 4 of the Act. On the other hand, the coal consumed by Applicant and produced at the "Harmar" mine of Consumers Coal Company and at the "Freeburne" mine of Emperor Coal Company does not fall within the provisions of Subsection (1) of Section 4 of the Act and, therefore, is not exempt from the provisions of Section 4 of the Act.

An appropriate order will be entered.

At a session of the National Bituminous Coal Commission held at its office in Washington, D. C., on the 13th day of October, 1937.

[D53FD]

Order in the Matter of the Application of Wheeling Steel Corporation for Exemption From the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

This proceeding having been duly heard and the testimony and other evidence introduced into hearing being duly recorded and filed with the Commission; and the duly designated examiner of the Commission having submitted proposed findings of fact and recommendations of an appropriate order in the premises; and the Commission having on the date hereof, made and filed report containing its findings of fact and conclusions thereon; and an opinion having been filed separately; all of which are hereby referred to and made a part hereof:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the application of the Wheeling Steel Corporation is hereby granted to the extent that the coal produced at its Beech Bottom Mine, Beech Bottom, West Virginia, and consumed by the applicant is within the purview of sub-section (1) of Section 4 of the Bituminous Coal Act of 1937 and is held to be exempt from the provisions of Section 4 of said Act.

2. That the bituminous coal consumed by the applicant and produced at the Harmar mine of Consumers Coal Company and at the Freeburne mine of the Emperor Coal Company does not come within the purview of sub-section (1) of Section 4 of the Act and accordingly is held not to be exempt from the provisions of Section 4 of the Act.

By order of the Commission.

[SEAL]

C. F. HOSFORD, Jr., Chairman.

Dated this 13th day of October, 1937.

[F. R. Doc. 37-3154; Filed, October 28, 1937; 12:03 p. m.]

[D31FD]

IN THE MATTER OF THE APPLICATION OF EMPEROR COAL COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4-A OF SAID ACT

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes", (Public, No. 48, 75th Congress, 1st Sess.), known as the Bituminous Coal Act of 1937, Applicant, Emperor Coal Company, on the 21st day of June 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, all commerce in bituminous coal produced by it. The Application is filed by virtue of the authority granted in the second paragraph of Section 4-A of the Act and the exemption requested under the second paragraph of Section 4-A of the Act, subsection (1) of Section 4 of the Act, and upon the further broad ground that commerce in bituminous coal of the kind and character engaged in by Applicant is excluded from the provisions of the Act.

The Commission, pursuant to the provisions of said Act, by its Orders of Assignment and Reference dated August 11, 1937, assigned said cause for hearing and by its order dated the 7th day of September 1937, assigned said cause to Robert C. Patterson, an examiner of the Commission, for hearing, submission of proposed findings of fact and recommendation of appropriate order in the premises.

Due and reasonable notice of said hearing having been given all interested parties, said cause came on for hearing before said examiner of the Commission, in accordance with the aforesaid Orders of the Commission, on the 8th day of September, 1937, at Washington, D. C. At said hearing testimony and other evidence was introduced by Carl O. Schmidt, counsel for Applicant, in support of the allegations of the Application, the testimony and other evidence adduced at the hearing being duly recorded and filed with the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission upon the record and the Commission having duly considered same, and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS OF FACT

Applicant, Emperor Coal Company, is a corporation organized and existing as such under and by virtue of the laws of the state of Kentucky, with its general offices located at Freeburne, Kentucky, and is a member of the Bituminous Coal Code.

Applicant is engaged primarily in the business of producing bituminous coal and owns and operates a mine for such purpose located at Freeburne, Kentucky, said mine being known as the "Freeburne" mine. Said corporation has its own individual offices; operates its own mine; pays its own taxes; employs and pays its own labor by its own check; owns in fee the mine in question, including all of its facilities, coal lands and the coal lying in place; keeps an individual set of books; maintains an individual bank account; carries its assets upon its books in its own name; maintains an individual office at its mine; and in the years 1931-1933 produced and sold coal commercially, making a profit and depositing the funds realized as profit in a bank to its own account.

That the coal produced by Emperor Coal Company at said Freeburne mine is delivered to and consumed by Wheeling Steel Corporation, a corporation organized and existing as such under and by virtue of the laws of the State of West Virginia, which said corporation is a legal entity separate to Wheeling Steel Corporation by Applicant herein being transported by rail in interstate commerce.

We conclude:

That upon the record in this cause it is clear the Applicant owns and operates the coal mine located at Freeburne,

Kentucky, and produces the coal produced at said mine, the coal produced at said mine being consumed by Wheeling Steel Corporation. It is also clear under the record in this cause that Applicant and Wheeling Steel Corporation are separate and distinct corporations. It is also clear under the record in this cause that Applicant is not the consumer of the coal produced at the Freeburne mine, the consumer of such coal being the Wheeling Steel Corporation.

Consequently, under the record in this cause, the coal produced by Applicant at its said Freeburne mine does not fall within the provisions of subsection (1) of Section 4 of the Act and, therefore, is not exempt from the provisions of Section 4 of the Act.

An appropriate order will be entered.

At a session of the National Bituminous Coal Commission held at its office in Washington, D. C., on the 13th day of October, 1937.

[D31FD]

Order in the Matter of the Application of Emperor Coal Company for Exemption From the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

This proceeding having been duly heard and the testimony and other evidence introduced into hearing being duly recorded and filed with the Commission; and the duly designated examiner of the Commission having submitted proposed findings of fact and recommendations of an appropriate order in the premises; and the Commission having on the date hereof, made and filed report containing its findings of fact and conclusions thereon; and an opinion having been filed separately; all of which are hereby referred to and made a part hereof:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes", (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the application of the Emperor Coal Company is denied as the coal produced at its mine located at Freeburne, Kentucky, is not consumed by the applicant, and such coal is not exempt from the provisions of Section 4 of the Bituminous Coal Act of 1937.

By order of the Commission.

[SEAL]

C. F. HOSFORD, Jr., Chairman.

Dated this 13th day of October, 1937.

[F. R. Doc. 37-3156; Filed, October 28, 1937; 12:10 p. m.]

[D30FD]

IN THE MATTER OF THE APPLICATION OF CONSUMERS MINING COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4-A OF SAID ACT

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress, approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes", (Public, No. 48, 75th Congress, 1st Sess.), known as the Bituminous Coal Act of 1937, Applicant, Consumers Mining Company, on the 17th day of June, 1937, filed with the Commission its application under the second paragraph of Section 4-A of the Bituminous Coal Act of 1937, seeking to have exempted from the provisions of Section 4 of said Act all coal produced by it.

The Commission, pursuant to the provisions of said Act, by its order dated the 11th day of August, 1937, assigned said cause for hearing and by its Order of Reference dated the 11th day of August, 1937, referred and assigned said matter to Charles S. Mitchell, an examiner of the Commission, for hearing, submission of proposed findings of fact

and recommendation of appropriate order in the premises. On the 7th day of September, 1937, the Commission by its order reassigned said matter to Robert C. Patterson, an examiner of the Commission, for hearing, submission of proposed findings of fact and recommendation of appropriate order in the premises.

Due and reasonable notice of said hearing having been given all interested parties, said cause came on for hearing before said examiner in accordance with the aforesaid Orders of the Commission on the 8th day of September, 1937, at Washington, D. C. At said hearing Applicant introduced testimony and other evidence in its behalf, there being no testimony or other evidence offered by counsel for the Commission or by other interested parties. The testimony and other evidence adduced at the hearing was duly recorded and filed with the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission upon the record in said cause and the Commission, having duly considered the same and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS OF FACT

Applicant, Consumers Mining Company, a member of the Bituminous Coal Code, is a corporation organized and existing as such under and by virtue of the laws of the State of Pennsylvania with its general offices located at Harmarville, Pennsylvania. Applicant is engaged primarily in the business of producing bituminous coal and owns and operates a mine for such purpose located at Harmarville, in Allegheny County, Pennsylvania, said mine being known as the "Harmar" mine. Said corporation has its own individual officers; operates its own mine; pays its own taxes; employs and pays its own labor by its own check; owns in fee the mine in question, including all of its facilities, coal lands, and the coal lying in place; keeps an individual set of books; maintains an individual bank account; carries its assets upon its books in its own name; maintains an individual office at its mine; and in the years 1931-1933 produced and sold coal commercially, making a profit and depositing funds realized as profit in a bank to its own account.

That the coal produced by Consumers Mining Company at said Harmar mine is delivered to and consumed by Wheeling Steel Corporation, with the exception of that sold to and consumed by the employees of Consumers Mining Company, the coal delivered to and consumed by Wheeling Steel Corporation being transported in interstate commerce.

We conclude:

That under the record in this cause the Applicant, Consumers Mining Company, owns and operates the mine located at Harmarville, in the State of Pennsylvania, and that it disposes of its product to the Wheeling Steel Corporation, a corporation separate and distinct from the Consumers Mining Company. It is further clear under the record in this cause that the producer of the coal in question, the Consumers Mining Company, is not the consumer thereof and, consequently, the coal produced by the Applicant, Consumers Mining Company, does not fall within Subsection (1) of Section 4 of the Act. The application is, therefore, denied.

An appropriate order will be entered.

At a session of the National Bituminous Coal Commission held at its office in Washington, D. C., on the 13th day of October, 1937.

[D30FD]

Order in the Matter of the Application of Consumers Mining Company for Exemption From the Provisions of Section 4 of the Bituminous Coal Act of 1937, as Authorized by the Second Paragraph of Section 4-A of Said Act

This proceeding having been duly heard and the testimony and other evidence introduced into hearing being duly re-

corded and filed with the Commission; and the duly designated examiner of the Commission having submitted proposed findings of fact and recommendations of an appropriate order in the premises; and the Commission having on the date hereof, made and filed report containing its findings of fact and conclusions thereon; and an opinion having been filed separately; all of which are hereby referred to and made a part hereof:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes", (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the application of the Consumers Mining Company is denied as the coal produced at its mine located at Harmarville, Pennsylvania, is not consumed by the applicant and such coal is not exempt from the provisions of Section 4 of the Bituminous Coal Act of 1937.

By order of the Commission.

[SEAL]

C. F. HOSFORD, JR., *Chairman*.

Dated this 13th day of October, 1937.

[F. R. Doc. 37-3155; Filed, October 28, 1937; 12:08 p. m.]

RULING RE CONTRACTS FOR THE SALE OF BITUMINOUS COAL TO GOVERNMENTAL AGENCIES

The Commission has been informed that in many instances agencies of the Federal and State Governments, and political subdivisions thereof, are directed by statute or local ordinance to award contracts for the delivery of coal only after the submission of bids; that subsequent to the establishment of minimum prices by the Commission some time will necessarily elapse before such agencies can prepare the necessary invitations to bid, receive and examine bids submitted, and enter into contracts based upon such bids; that such agencies must maintain an adequate and constant supply of coal at all times and that coal presently is being supplied under contracts providing for deliveries not more than thirty (30) days from the date of such contracts. In view of the above mentioned situation the Commission states:

1. That it will not construe as a violation of the Act the making of a contract with an agency of the Federal or State Governments, or political subdivisions thereof, which contains a provision that in the event the National Bituminous Coal Commission shall establish during the period of the contract a minimum price for the class, grade or size of coal produced at the mine or mines named in the contract, which is more than the contract price for such coal, the contract price shall be increased to the minimum price so established by the Commission, for the coal shipped from the mine or mines and delivered after the effective date of the establishment of such minimum price; that the right is reserved to the purchaser to enter a new contract for successive thirty (30) day periods until a minimum price for the coal shall have been established by the Commission; and that the right is reserved to the purchaser to enter a new contract for a period of sixty (60) days after the date of the establishment of such a minimum price, the price to be paid during such periods to be the contract price or the minimum price, if any, established by the Commission effective on dates of shipment from the mine or mines named in the contract.

2. That it will not construe as a violation of the code the making of a contract by a code member in conformity with the provisions set forth in paragraph one above.

By order of the Commission.

Dated this 27th day of October, 1937.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 37-3157; Filed, October 28, 1937; 12:12 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ORDER AND NOTICE OF TERMINATION OF THE LICENSE FOR GUM-TURPENTINE AND GUM-ROBIN PROCESSORS, LICENSE NO. 37

Whereas the Secretary of Agriculture of the United States on March 9, 1934, acting under the provisions of the Agricultural Adjustment Act, issued under his hand and the official seal of the Department of Agriculture a license for processors of gum-turpentine and gum-robin, effective March 13, 1934, which license was subsequently amended by the Secretary of Agriculture on June 27, 1934, effective June 28, 1934, on December 27, 1934, effective December 31, 1934, and on April 22, 1935, effective April 26, 1935; and

Whereas the Secretary of Agriculture on August 1, 1935, issued an order suspending the further operation of article V of the said license, as amended, effective August 5, 1935; and

Whereas the Secretary of Agriculture has determined to terminate the said license, as amended.

Now, therefore, the undersigned acting under the authority vested in the Secretary of Agriculture under the terms and conditions of the said act and pursuant to the applicable general regulations issued thereunder hereby terminates the said license, as amended.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States has executed this order and notice in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 29th day of October 1937 and hereby declares this termination to be effective on and after 12:01, a. m., e. s. t., November 3, 1937.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3177; Filed, October 29, 1937; 12:05 p. m.]

IR-B-101—Puerto Rico, amendment 2. Issued October 29, 1937.
1937 AGRICULTURAL CONSERVATION PROGRAM—INSULAR REGION
AMENDMENT 2 TO INSULAR REGION BULLETIN 101—PUERTO RICO

Paragraph (b) of practice numbered 10 of section 3 of Part I of Insular Region Bulletin 101—Puerto Rico¹ is hereby amended to read as follows:

"(b) For all plantation farms.—Field experiments on principal types of soil included in the cropland on the plantation farm (not devoted to permanent pasture or to orchards or trees of any kind) in the use of organic matter or chemical fertilizers, the experiments to be properly laid out, controlled, harvested, and reported to the local office of the Insular Division, or carried to that degree of completion which is practicable during the calendar year 1937, with not less than five repetitions of each individual treatment (variable) to be tested, and five repetitions of the standard check, the number of experiments to be established on the farm to be determined in accordance with the following table:

"For farms on which there is included cropland not devoted to permanent pasture or to orchards or trees of any kind, in an amount—

"Less than 800 acres, 1 experiment.

"800-1,299 acres, inclusive, 2 experiments.

"1,300-1,899 acres, inclusive, 3 experiments.

"1,900-2,499 acres, inclusive, 4 experiments.

"2,500 acres and over, 5 experiments, plus one additional experiment for each 1,000 acres in excess of 2,500 acres."

Done at Washington, D. C., this 29th day of October, 1937.
Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3178; Filed, October 29, 1937; 12:05 p. m.]

¹ 2. F. R. 935 (DI).

Bureau of Animal Industry.

NOTICE OF HEARING RE DESIGNATION OF CINCINNATI, OHIO, AS A MARKET SUBJECT TO THE LIVE POULTRY AMENDMENT TO THE PACKERS AND STOCKYARDS ACT

It appearing from information in the Department of Agriculture that the city of Cincinnati, Ohio, and certain markets and places therein should be designated as a city, market, or place subject to the provisions of the Packers and Stockyards Act, as amended August 14, 1935, 49 Stat. 648; 7 U. S. C. (Supp. II), Section 218 (a),

Notice is hereby given that, pursuant to said act as amended, a hearing will be held beginning at 10 a. m. November 10, 1937, in Room 9, Live Stock Exchange Building, Cincinnati, Ohio, at which any interested party may appear and present such facts as tend to show whether Cincinnati and certain markets and places therein should be so designated.

After a city is designated, no person other than packers, as defined in Title II of the Packers and Stockyards Act, 42 Stat. 159; 7 U. S. C. Sections 189 to 231, and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture.

Done at Washington, D. C., this 29th day of October, 1937.
Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3176; Filed, October 29, 1937; 10:06 a. m.]

NOTICE UNDER ACT TO REGULATE INTERSTATE AND FOREIGN COMMERCE IN LIVESTOCK, ETC.

OCTOBER 28, 1937.

TO THE HOCKING VALLEY LIVESTOCK SALES COMPANY,
Stockyard owner, at Lancaster, Ohio.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as The Hocking Valley Livestock Sales Company, at Lancaster, State of Ohio, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules

and regulations issued thereunder by the Secretary of Agriculture.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 37-3170; Filed, October 28, 1937; 3:41 p. m.]

NOTICE UNDER ACT TO REGULATE INTERSTATE AND FOREIGN
COMMERCE IN LIVESTOCK, ETC.

OCTOBER 28, 1937.

To E. C. STICKELMAN,

Doing business as Stickelman Livestock Commission
Company, stockyard owner, at Gothenburg, Nebraska.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Stickelman Livestock Commission Company, at Gothenburg, State of Nebraska, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 37-3172; Filed, October 28, 1937; 3:42 p. m.]

NOTICE UNDER ACT TO REGULATE INTERSTATE AND FOREIGN
COMMERCE IN LIVESTOCK, ETC.

OCTOBER 28, 1937.

To TWIN FALLS COMMISSION COMPANY,

Stockyard owner, at Twin Falls, Idaho.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in

which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Twin Falls Commission Company, at Twin Falls, State of Idaho, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 37-3171; Filed, October 28, 1937; 3:41 p. m.]

Bureau of Entomology and Plant Quarantine.

B. E. P. Q.—Q. 52.

Rev. of Reg. 3

MODIFICATION OF PINK BOLLWORM QUARANTINE REGULATIONS

INTRODUCTORY NOTE

The following revision adds the counties of Socorro and Valencia in New Mexico to the lightly infested areas. There are no ginning facilities in these counties and the small amount of cotton grown therein is carried into the adjacent regulated area for ginning. The inclusion of these counties in the regulated area allows such seed to be returned after ginning to farms and ranches in Socorro and Valencia Counties for planting and feeding purposes. No other changes are made in the regulations.

LEE A. STRONG,
Chief, Bureau of Entomology and Plant Quarantine.

Amendment No. 3 to Revised Rules and Regulations Supplemental to Notice of Quarantine No. 52

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the Act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulation 3 of the revised rules and regulations supplemental to Notice of Quarantine No. 52, on account of the pink bollworm of cotton, which were promulgated on October 13, 1936, as amended effective December 1, 1936, and further amended effective April 6, 1937,¹ be and the same is hereby still further amended to read as follows:

REGULATION 3. REGULATED AREAS; HEAVILY AND LIGHTLY
INFESTED AREAS

Regulated areas

In accordance with the provisos to Notice of Quarantine No. 52 (revised), the Secretary of Agriculture designates as regulated areas, for the purpose of these regulations, the following counties in Arizona, New Mexico, and Texas, including all cities, districts, towns, townships, and other political subdivisions within their limits:

Arizona area.—Counties of Cochise, Graham, and Greenlee.

¹ 1 F. R. 1585, 2071; 2 F. R. 776 (DI).

New Mexico area.—Counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia.

Texas area.—Counties of Andrews, Brewster, Cameron, Cochran, Crane, Culberson, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Hudspeth, Jeff Davis, Loving, Martin, Midland, Pecos, Presidio, Reeves, Starr, Terrell, Terry, Upton, Ward, Willacy, Winkler, and Yoakum; that part of *Bailey County* lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of league 207; thence west following the northern boundary line of leagues 207, 203, 191, 188, 175, and 171 to the northeast corner of league 171; thence south on the western line of league 171 to the northeast corner of the W. H. L. survey; thence west along the northern boundary of the W. H. L. survey and the northern boundary of sections 68, 67, 66, 65, 64, 63, 62, 61, and 60 of Block A of the M. B. & B. survey to the western boundary of said county; that part of *Lamb County* lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of section 9 of the R. M. Thomson survey; thence west following the northern boundary line of sections 9 and 10 of the R. M. Thomson survey and the northern boundary line of sections 6, 5, 4, 3, 2, and 1 of the T. A. Thompson survey and the northern boundary line of leagues 637, 636, and 635 to the southeast corner of league 239; thence north on the eastern boundary line of league 239 to the northeast corner of said league; thence west on the northern boundary line of league 239, 238, 233, 222, 218, and 207 to the western boundary line of said county.

Heavily Infested Areas

Of the regulated areas, the following counties and parts of counties are hereby designated as heavily infested within the meaning of these regulations:

Counties of Brewster, Culberson, Jeff Davis, Presidio, and Terrell, in the State of Texas, and all of *Hudspeth County* in the same State except that part of the northwest corner of said county lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

Lightly Infested Areas

The following areas are designated as lightly infested:

The counties of Cochise, Graham, and Greenlee in Arizona¹; the counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia in New Mexico; the entire counties of Andrews, Cameron, Cochran, Crane, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Loving, Martin, Midland, Pecos, Reeves, Starr, Terry, Upton, Ward, Willacy, Winkler, and Yoakum, the regulated parts of Bailey and Lamb Counties in Texas, and that part of the northwest corner of Hudspeth County, Tex., lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

This amendment shall be effective on and after Oct. 28, 1937, and shall on that date supersede amendment no. 2 which became effective April 6, 1937.

Done at the city of Washington this 27th day of October, 1937.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 37-3173; Filed, October 28, 1937; 3:42 p. m.]

¹Part of the lightly infested area in Arizona is regulated on account of the *Thurberia weevil* under quarantine No. 61, and shipments therefrom must comply with the requirements of that quarantine.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

REGULATION T, EXTENSION AND MAINTENANCE OF CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

AMENDMENT NO. 10, EFFECTIVE NOVEMBER 1, 1937

On October 27, 1937, the Board of Governors of the Federal Reserve System adopted the following resolution:

Be it resolved, That, effective November 1, 1937, Regulation T, as amended, is further amended in the following respects:

1. Section 2 (d) of said regulation is amended to read as follows:

"(d) The term '*combined account*' means the combination of all accounts (except '*special accounts*') between any creditor and any customer, or any group of customers acting jointly."

2. Section 2 (m) of said regulation is amended to read as follows:

"(m) The term '*customer*' means any person (including any partner of a creditor firm in his relations with the firm) to or for whom, or any group of persons to or for whose joint account, a creditor is carrying any short position in securities or extending or maintaining any credit: *Provided, however*, That a partner shall not be deemed to be a customer of his firm within the meaning of this regulation with reference to his financial relations to the firm as reflected in his capital and ordinary drawing accounts."

3. Clause (2) of section 3 (b) of said regulation is amended to read as follows:

"(2) in such account transactions are permitted and credit is extended or maintained solely for the purpose of enabling such member, broker, or dealer to carry accounts for his customers other than his partners, and"

4. Clause (3) of section 3 (f) of said regulation is amended to read as follows:

"(3) The current market value of any securities sold short in the account (other than unissued securities) *plus*, for each such security (other than an unissued or exempted security), such amount as the Board shall prescribe from time to time in the supplement to this regulation as the amount to be included as the margin required for such short sales, except that such amount so prescribed need not be included when there are held in the account securities exchangeable or convertible into such securities sold short;"

5. The first sentence of the last paragraph of section 3 (f) of said regulation is amended to read as follows:

"For the purposes of this regulation, the adjusted debit balance of every account in which any short position in securities (other than unissued or exempted securities) is carried or any credit is extended or maintained for the purpose of purchasing or carrying securities shall be computed in accordance with the above rules, regardless of whether it be a combined account or a special account."

[SEAL]

S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 37-3187; Filed, October 29, 1937; 1:05 p. m.]

AMENDMENT TO SUPPLEMENT TO REGULATION T, EXTENSION AND MAINTENANCE OF CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

On October 27, 1937, the Board of Governors of the Federal Reserve System adopted the following resolution:

Be it resolved, That, effective November 1, 1937, the supplement to Regulation T is amended to read as follows:

"BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"*Supplement to Regulation T*

"Effective November 1, 1937

"*Maximum Loan Values.*—Pursuant to the provisions of section 7 of the Securities Exchange Act of 1934 and sec-

tion 3 of its Regulation T, as amended, the Board of Governors of the Federal Reserve System hereby prescribes the following maximum loan values of registered securities (other than exempted securities) for the purposes of Regulation T:

"(1) *General rule.*—Except as provided in paragraphs (2) and (3) of this supplement, the maximum loan value of a registered security (other than an exempted security) shall be 60 per cent of the current market value of the security.

"(2) *Extension of credit to other members, brokers and dealers.*—The maximum loan value of a registered security (other than an exempted security) in a special account with another member, broker or dealer, which special account complies with subsection (b) of section 3 of Regulation T, as amended, shall be 75 per cent of the current market value of the security.

"(3) *Extension of credit to distributors, syndicates, etc.*—The maximum loan value of a registered security (other than an exempted security) in a special account with a distributor, syndicate, etc., which special account complies with subsection (c) of section 3 of Regulation T, as amended, shall be 80 per cent of the current market value of the security.

"*Margin Required On Short Sales.*—Pursuant to the provisions of section 7 of the Securities Exchange Act of 1934 and section 3 of Regulation T, as amended, the Board of Governors of the Federal Reserve System hereby prescribes that the amount to be included in the adjusted debit balance of an account, pursuant to section 3 (f) (3) of Regulation T, as amended, as margin required on short sales of securities (other than unissued or exempted securities) shall be 50 per cent of the current market value of each such security except that in the case of a special account with another member, broker or dealer, which special account complies with subsection (b) of section 3 of Regulation T, as amended, such amount shall be 35 per cent of such current market value."

[SEAL] S. R. CARPENTER, Assistant Secretary.

[F. R. 37-3188; Filed, October 29, 1937; 1:05 p. m.]

AMENDMENT TO SUPPLEMENT TO REGULATION U, LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING STOCKS REGISTERED ON A NATIONAL SECURITIES EXCHANGE

On October 27, 1937, the Board of Governors of the Federal Reserve System adopted the following resolution:

Be it resolved, That, effective November 1, 1937, the supplement to Regulation U¹ is amended by changing the maximum loan value figure "45 per cent" in the first paragraph of said supplement to "60 per cent", and by changing the maximum loan value figure "60 per cent" in the second paragraph of said supplement to "75 per cent", so that as thus amended the supplement will read as follows:

"SUPPLEMENT TO REGULATION U

"Issued by the Board of Governors of the Federal Reserve System

"Effective November 1, 1937

"For the purpose of section 1 of Regulation U, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 60 per cent of its current market value, as determined by any reasonable method.

"*Loans to brokers and dealers.*—Notwithstanding the foregoing, a stock, if registered on a national securities exchange shall have a special maximum loan value of 75 per cent of its current market value, as determined by any reasonable method, in the case of a loan to a broker or dealer from whom the bank accepts in good faith a signed statement to the effect (1) that he is subject to the provisions of Regulation T (or that he does not extend or maintain credit to or for customers except in accordance therewith as if he were subject thereto), and (2) that the securities hy-

potheated to secure the loan are securities carried for the account of his customers other than his partners."

[SEAL]

S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 37-3189; Filed, October 29, 1937; 1:06 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket Nos. IT-5489, 5490, 5491]

APPLICATIONS OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY

ORDER SETTING HEARING

Upon applications filed October 26, 1937, by Public Service Electric and Gas Company, 80 Park Place, Newark, New Jersey, pursuant to Section 203 of the Federal Power Act for approval of the merger of Newark Consolidated Gas Company, (IT-5489), Essex and Hudson Gas Company, (IT-5490), and Hudson County Gas Company, (IT-5491), all being corporations organized under the laws of the State of New Jersey, into said Public Service Electric and Gas Company:

The Commission orders:

That a hearing be held on the said applications beginning at 10 a. m., Monday, November 22, 1937, in the Commission's hearing room, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

Adopted by the Commission on October 26, 1937.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 37-3174; Filed, October 29, 1937; 9:38 a. m.]

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Projects Nos. 67 and 120, and 96]

SOUTHERN CALIFORNIA EDISON COMPANY, LTD., SAN JOAQUIN LIGHT AND POWER CORPORATION

ORDER POSTPONING REHEARING

Upon telegraphic request received October 29, 1937, from Southern California Edison Company Ltd., the Commission orders:

That the rehearing set for November 4, 1937,¹ with regard to Paragraphs 5, 6, and 7 of the order dated July 10, 1937, directing San Joaquin Light and Power Corporation and Southern California Edison Company Ltd., jointly to compute the amount of headwater benefits in connection with projects Nos. 96, 67, and 120, be postponed to Monday, December 6, 1937, to be held in the Commission's hearing room at 1800 Pennsylvania Avenue NW., Washington, D. C., beginning at 10 a. m.

Adopted by the Commission on October 29, 1937.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 37-3179; Filed, October 29, 1937; 12:12 p. m.]

FOREIGN-TRADE ZONES BOARD.

[Order No. 4]

AN ORDER RELATIVE TO THE HANDLING OF GOLD AND SILVER IN FOREIGN-TRADE ZONES

At a regular meeting of the Foreign-Trade Zones Board, held at its offices in the City of Washington, D. C., on the 22nd day of September, A. D., 1937, the Board considered the matter relating to the handling of gold and silver in foreign-trade zones and adopted the following order:

¹ 1 F. R. 126, 690; 2 F. R. 1660 (DI).

² 2 F. R. 2441 (DI).

Whereas section 15 (c) of the Act of June 18, 1934 (U. S. C., title 19, sec. 810 (c)), relating to foreign-trade zones provides as follows:

The Board may at any time order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

And whereas, paragraph 803 of regulations of the Foreign-Trade Zones Board provides as follows:

"When it shall be reported to the Board that any goods or process of treatment is detrimental to the public interest, health, or safety, the Board shall cause such investigation to be made as it may deem necessary. The Board may order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety."

And whereas the Board finds that in its judgment the melting, smelting, or refining or other treatment by heating or by a chemical or electrical process of silver or gold in any form within any foreign-trade zone within the continental United States, and the admission into any such zone of silver or gold, with the exceptions hereinafter enumerated, are detrimental to the public interest;

Now, Therefore, Be It Ordered, that silver or gold in any form may not be melted, smelted, or refined or otherwise treated by heating or by a chemical or electrical process within any foreign-trade zone within the continental United States; and further that silver and gold are hereby excluded from admission into any such zone, except that "fabricated silver", as referred to in section 91 of the Silver Regulations of August 17, 1934, as amended,¹ and "fabricated gold", as defined in section 4 of the Provisional Regulations issued under the Gold Reserve Act of 1934,² may be admitted into and held in such form within any such zone.

Attention is directed to the fact that silver may be exported from the continental United States only as provided in Article IX of the Silver Regulations of August 17, 1934, as amended (see section 91 regarding the exportation of "fabricated silver"); and gold may be exported from the continental United States only as provided in the Provisional Regulations issued under the Gold Reserve Act of 1934 (see section 16 regarding the exportation of "fabricated gold").

[SEAL]

DANIEL C. ROPER,
Secretary of Commerce,

Chairman, Foreign-Trade Zones Board.

OCTOBER 21, 1937.

[F. R. Doc. 37-3182; Filed, October 29, 1937; 12:37 p. m.]

INTERSTATE COMMERCE COMMISSION.

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 16th day of October, A. D. 1937.

[Ex Parte 72 (Sub-No. 1)]

ORDER IN THE MATTER OF REGULATIONS CONCERNING THE CLASS OF EMPLOYEES AND SUBORDINATE OFFICIALS THAT ARE TO BE INCLUDED WITHIN THE TERM "EMPLOYEE" UNDER THE RAILWAY LABOR ACT

The Commission having been requested to determine whether so-called "red caps", station porters, station attendants, parcel porters, ushers, and other persons whose duties consist of, or include, carrying passengers' hand baggage

¹ Section 91 of the Silver Regulations of August 17, 1934, as amended, refers to fabricated silver as "Silver contained in articles fabricated and held in good faith for a specific and customary use and not for their value as silver bullion."

² Section 4 of the Provisional Gold Regulations reads in part as follows:

"Fabricated gold" means gold which has, in good faith and not for the purpose of evading, or enabling others to evade, the provisions of the * * * [Gold Reserve Act of 1934, or of the regulations issued thereunder,] been processed or manufactured for some one or more specific and customary industrial, professional, or artistic uses, but does not include gold coin or scrap gold."

and other articles between trains, waiting rooms, ferries, and/or highway vehicles, together with those who supervise or direct the performance of such duties, are employees of the carriers within the meaning of the fifth paragraph of section 1 of the Railway Labor Act;

It is ordered, That each class I steam railroad, also each switching and terminal company, and each class A electric railway reporting to this Commission, be, and it is hereby, ordered and directed to furnish the information called for in the attached questionnaire with respect to each passenger station at all cities of over 100,000 population, based on the 1930 census, and return the same properly sworn to as indicated in the questionnaire not later than December 15, 1937.

It is further ordered, That each class I steam railroad, also each switching and terminal company, and each class A electric railway reporting to this Commission be made parties to this proceeding, also that a copy of this order be served upon each such carrier, and that notice of this order be given to the general public by depositing a copy of the same in the office of the Secretary of the Commission at Washington, D. C.

By the Commission, division 3.

[SEAL]

W. P. BARTEL, Secretary.

QUESTIONNAIRE

Subject: Hand baggage porters.

NOTE.—The term "hand baggage porters" as used in this questionnaire means persons whose duties consist of, or include, carrying passengers' hand baggage and other articles between trains, waiting rooms, ferries, and/or highway vehicles, together with those who supervise or direct the performance of such duties. These men are variously designated by terms such as "red caps", station porters, "station attendants", "parcel porters", "ushers", "chief ushers", "captains", etc. They are divided into two classes, A and B, as shown below. It is desired that all questions be answered as to both classes.

Exact name of reporting carrier.

Name, title, and address of officer of respondent to whom correspondence concerning this report should be addressed.

(Name)

(Title)

(Address)

Name of station

Location of station

(City)

(State)

CLASS A—HAND BAGGAGE PORTERS WHO ARE PAID SALARIES, WAGES, OR OTHER COMPENSATION BY RESPONDENT

1. Total number employed on September 1, 1937.
2. By what title or titles are they designated?
 - a.
 - b.
 - c.
3. Their duties, if any, in addition to carrying hand baggage and other articles for passengers.
 - a.
 - b.
 - c.
4. Average number of hours in service per person.
 - a. Per day.
 - b. Per week.
 - c. Per month.
5. Salary or wages.
 - a. Per hour.
 - b. Per day.
 - c. Per week.
 - d. Per month.

(The entries under 4 and 5 should be in accord with the basis usually employed at the station for which the report is made.)

6. What was the total amount of compensation received from the carrier for services of such employees at the station covered by the return during the month of September, 1937?

7. What was the total number employed at such station during the whole or any part of the same month?

8. Do they also receive tips?

9. Are they permitted to solicit tips?

10. Do you have any information regarding the amount of tips collected? If so, submit such information as is available for any representative period.

11. Are they considered eligible to receive passes?

OATH

12. The number who have received passes during the current year.

13. Are they required to wear a certain kind of uniform, cap, badge, or other identifying insignia? If so, give details.

14. Who bears the expense of the uniforms, etc. worn?

16. Give title or position of officers or employees under whose supervision hand baggage porters perform their services.

17. Are they required to make any kind of application for employment? If so, submit copy of application form and state by whom application must be approved.

18. Are they required to pass an examination? If so, state nature of examination.

19. Are they subject to certain rules? If so, submit copy of rules.

20. Is discipline imposed for breach of rules? If so, nature of discipline.

21. Are any of them members of any relief, benefit, hospital, or group insurance organization for employees of the carrier? If so, state number and other details briefly.

22. Are any seniority rights or preferences accorded them, based on length of service? If so, specify briefly.

23. Summarize briefly any agreements between carrier and any labor organizations regarding wages, rules, and working conditions of persons covered by return.

24. Number who are conceded by the carrier to be employees.

If some are conceded to be employees and others are not, state the distinction.

CLASS B—HAND BAGGAGE PORTERS WHO RECEIVE NO COMPENSATION OTHER THAN TIPS

1. Total number in service on September 1, 1937.

2. By what title or titles are they designated?

a.

b.

c.

3. Average number of hours in service per person.

a. Per day.

b. Per week.

c. Per month.

4. Their duties, if any, in addition to carrying hand baggage and other articles for passengers.

a.

b.

c.

5. Are they considered eligible to receive passes?

6. The number who have received passes during the current year.

7. What officer or employee assigns these persons to the service?

8. Give title or position of officers or employees under whose supervision hand baggage porters perform their services.

9. Are they required to make any kind of application? If so, submit copy of application form and state by whom it must be approved.

10. Are they required to pass an examination? If so, state nature of examination.

11. Are they subject to certain rules? If so, submit copy of rules.

12. Is discipline imposed for breach of rules? If so, nature of discipline.

13. Are they disciplined for improper service to passengers? If so, nature of discipline.

14. Are they permitted to solicit tips?

15. Do you have any information regarding the amount of tips collected? If so, submit such information as is available for any representative period.

16. Are they required to wear a certain kind of uniform, cap, badge, or other identifying insignia? If so, give details.

17. Who bears the expense of the uniforms, etc. worn?

18. Are any required to pay for the privilege of acting as hand baggage porters?

19. If the services of hand baggage porters are engaged by a concessionaire, so state.

20. Are any seniority rights or preferences accorded them, based on length of service? If so, specify briefly.

21. Are any of them members of any relief, benefit, hospital, or group insurance organization for employees of the carrier? If so, state number and other details briefly.

22. Have any been paid salaries, wages, or other compensation since enactment of the Railway Labor Act on May 20, 1926? If so, state number and other details.

23. Have the salaries, wages, or other compensation of any such persons been discontinued during or since Federal control? If so, state the number and other details.

24. Summarize briefly any agreements between carrier and any labor organizations regarding wages, rules, and working conditions of persons covered by return.

25. Number who are conceded by the carrier to be employees.

If some are conceded to be employees and others not, state the distinction.

NOTE.—If insufficient space is shown for any answer, the additional information may be shown on a supplemental sheet affixed to the questionnaire. Copies of this questionnaire sufficient for the probable requirements of the various carriers will accompany the order, but if additional copies are needed they will be furnished upon request.

STATE OF _____
County of _____, ss:

I, _____, the undersigned, _____
(Name of person) (Title)
_____ of the _____
(Full name of reporting carrier)

do on my oath declare that the foregoing returns have been prepared by me or under my direction from the books and records of said _____

(Full name of reporting carrier)
and from such other sources of information as seemed necessary for complete statement of the facts; that I have carefully examined or caused to be examined each and every statement herewith submitted; and that all of said statements are true and correct to the best of my knowledge, information, and belief.

Subscribed and sworn to before me this _____ day of _____, 19____

[F. R. Doc. 37-3169; Filed, October 23, 1937; 12:59 p. m.]

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 27th day of October, A. D. 1937.

[Ex Parte No. MC 14]

ORDER CONCERNING MOTOR CARRIER RATES IN MIDDLE ATLANTIC STATES

The Commission having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers by motor vehicle between points in certain middle Atlantic States, in connection with the order entered by Division 5 on September 28, 1937, in Investigation and Suspension Docket No. M-205, Rates over Freight Forwarders, Inc., suspending the operation of tariff schedules enumerated in said order and instituting an investigation with respect thereto, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, on its own motion, into and concerning the lawfulness of the rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property in interstate or foreign commerce between all points in territory A, on the one hand, and territory B, on the other hand, as respectively defined in appendix I of this order, with a view of determining whether the rates, charges, classifications, and the rules, regulations, and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

And it is further ordered, That this proceeding, and Investigation and Suspension Docket No. M-205, Rates over Freight Forwarders, Inc., be, and the same are hereby, consolidated for hearing and disposition.

By the Commission.

[SEAL]

W. P. BARTEL, Secretary.

APPENDIX I

Description of Territories

Territory A.—Points in New York, New Jersey, and Delaware on and within a line beginning at the Connecticut-New York State line east of Port Chester, N. Y., following the Connecticut-New York State line to a point north of State Highway 23; thence through Golden's Bridge, N. Y. and Peekskill, N. Y., down the east bank of the Hudson River to a point opposite Cliffside, N. J.; thence through Englewood, N. J., Paterson, N. J., Essex Falls, N. J., Springfield, N. J., Plainfield, N. J., Raritan, N. J., Flemington, N. J., Frenchtown, N. J., Point Pleasant, N. J., Pipersville, Pa., Souderton, Pa., Phoenixville, Pa., West Chester, Pa.; thence via a line drawn across U. S. Highway 1 between Chadds Ford and Hamorton, Pa., to the Pennsylvania-Delaware line via the Pennsylvania-Delaware line and the Maryland-Delaware line to U. S. Highway 40; via U. S. Highway 40 to New Castle, Del., down the Delaware River and Bay to Cape May and the New Jersey-Long Island coastline to Montauk Point, and thence through Long Island Sound to the Connecticut-New York State line.

Territory B.—Points in Maryland, Pennsylvania, District of Columbia, and Virginia on and within a line beginning at the Maryland-Delaware line on U. S. Highway 40, following the Southern boundary of Territory A to a point on U. S. Highway 1 between Chadds Ford and Hamorton, Pa.; thence via U. S. Highway 1 to Bel Air, Md.; thence through Cockeysville, Md., Westminster, Md., Taylorsville, Md., Ridgeville, Md., Clarksburg, Md., and Gaithersburg, Md., to the Potomac River at the Maryland-District of Columbia line; thence through Falls Church, Baileys Cross Roads, Alexandria, Va., along the District of Columbia-Maryland line; thence through Collington, Annapolis, and the Chesapeake Bay to Perryville, Md., and thence via U. S. Highway 40 to the Maryland-Delaware line.

[F. R. Doc. 37-3180; Filed, October 29, 1937; 12:30 p. m.]

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 27th day of October, A. D., 1937.

[Ex Parte No. MC-14]

MOTOR CARRIER RATES IN MIDDLE ATLANTIC STATES

INVESTIGATION AND SUSPENSION DOCKET NO. M-205; RATES OVER FREIGHT FORWARDERS, INC.

It appearing, That the Commission has this day entered an order instituting an investigation in Ex Parte No. MC-14, Motor Carrier Rates in Middle Atlantic States, has consolidated the same with Investigation and Suspension Docket No. M-205, Rates over Freight Forwarders, Inc., and has referred the said proceeding as thus consolidated to division 5 for administrative handling and disposition:

It is ordered, That the above-entitled proceedings be, and the same are hereby, assigned for hearing before division 5 on November 10, 1937, at 10 o'clock a. m. (standard time), at the offices of the Interstate Commerce Commission, Washington, D. C.,

By the Commission, division 5.

[SEAL]

W. P. BARTEL, *Secretary*.

[F. R. Doc. 37-3181; Filed, October 29, 1937; 12:31 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1937.

[File No. 52-6]

IN THE MATTER OF THE UNITED TELEPHONE AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Louis R. Gates, R. W. Samuelson, Ira C. Snyder, Donald L. Pettis and A. Z. Patterson, as Reorganization Managers for The United Telephone and Electric Company, pursuant to Sections 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, for the approval by the Commission of the reorganization plan for said Company submitted by the applicants to this Commission and for a report by this Commission on said plan, said Company being a registered holding company and the subject of reorganization proceedings under Section 77-B of the Bankruptcy Act now pending in the District Court of the United States for the District of Delaware.

It is ordered, That a hearing on such matter be held on November 29, 1937, at ten o'clock in the forenoon of that day at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 23, 1937.

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission. By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-3183; Filed, October 29, 1937; 12:44 p. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D., 1937.

IN THE MATTER OF JUMBO EXTENSION MINING COMPANY COMMON CAPITAL STOCK PAR VALUE 10 CENTS, ASSESSABLE

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas, Jumbo Extension Mining Company, a corporation, is the issuer of Common Capital Stock, Par Value 10 Cents, Assessable; and

Whereas said Jumbo Extension Mining Company registered such securities on the San Francisco Mining Exchange, by filing on or about May 5, 1936, an application with the said exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, promulgated by the Commission thereunder; and

Whereas, said Rule JB1, as amended, at the time said application was filed and at all subsequent times did and does

require such application to be filed on Form 10 for Corporations; and

Whereas said Jumbo Extension Mining Company has failed to comply with the provisions of said Section 12 (b) of said Securities Exchange Act, as amended, with the provisions of said Rule JB1, as amended, with the provisions of said Form 10 for Corporations, and with the provisions of the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, in that the application filed by it for registration of said securities on said exchange pursuant to said Section 12 (b) does not correctly state the status of securities temporarily registered, as required by Item 8 of said Form and the Instructions thereto; and fails to restrict the securities shown under Column E of Item 14 to reacquired securities, as required by that Item and the Instructions thereto; and fails to give information concerning preemptive and subscription rights in answer to Sections 5 and 6 of Item 19, as required by that Item and the Instructions thereto, and fails to furnish information as to record and beneficial holdings in the form required by Item 28 and the Instructions thereto, notwithstanding the provisions of Form 10 for Corporations and the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, as to the use of said Form 10 for Corporations; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security registered on a national securities exchange shall file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas, said Jumbo Extension Mining Company has failed to comply with Section (a) and (b) of said Securities Exchange Act of 1934, as amended, and with Rules KA1 and KA2 promulgated by the Commission thereunder in that, as issuer of said Common Capital Stock, Par Value 10 Cents, Assessable, it has failed to file the information and documents required by Rule KA1, adopted by the Commission pursuant to said Section 13 (a) and has failed to file its annual report for the year ending December 31, 1936 on Form 10-K as required by Rule KA2, adopted by the Commission pursuant to said Section 13 (b);

It is ordered, That pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said Jumbo Extension Mining Company has so failed to comply with said provisions of said Section 12 (b) (1) and said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of either of said Sections or of any Rule or Regulation promulgated by the Commission under either of said Sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Common Capital Stock, Par Value 10 Cents, Assessable, on said San Francisco Mining Exchange; and

It is further ordered, That said Jumbo Extension Mining Company appear before an officer of the Commission and show cause why the registration of said Common Capital Stock, Par Value 10 Cents, Assessable, on said San Francisco Mining Exchange should not be suspended for a period not exceeding twelve months or withdrawn, as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Howard A. Judy, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 16th day of November, 1937, at 10:00 A. M. at the regional office of the Securities and Exchange Commission, 625 Market Street, San Francisco,

California, and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-3186; Filed, October 29, 1937; 12:47 p. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 28th day of October, A. D., 1937.

IN THE MATTER OF ROSETTA MINES COMPANY COMMON CAPITAL STOCK

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas, Rosetta Mines Company, a corporation, is the issuer of Common Capital Stock; and

Whereas said Rosetta Mines Company registered such securities on the San Francisco Mining Exchange, by filing on or about November 13, 1935, an application with the said exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security registered on a national securities exchange shall file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas said Rosetta Mines Company filed on or about May 1, 1936, an annual report on Form 10-K for the fiscal year ended December 31, 1935, pursuant to Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder; and

Whereas said Rosetta Mines Company has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2, and with the provisions of said Form 10-K and with the provisions of the Instructions for said Form 10-K, and the Rules and Regulations of the Commission supplemental thereto, as amended, in that the annual report filed by it for the fiscal year ended December 31, 1935.

Fails to list Mr. Fred Tailleux as the parent of the registrant, and his respective percentage of voting power, although required by Item 1 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

Fails to include an Accountant's Certificate to the financial statements, filed as part of said annual report, which is reasonably comprehensive as to the scope of the audit made, and which states the opinion of the accountant with respect to the accounting principles and procedures followed by the registrant, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

Fails to include Schedule VIII in support of the registrant's financial statements, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

Whereas said Rosetta Mines Company has failed to comply with Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and with Rules KA1 and KA2 promulgated by the Commission thereunder in that, as issuer of said Common Capital Stock, it has failed to file the information and documents required by Rule KA1, adopted by the Commission pursuant to said Section 13 (a) and has failed to file its annual report for the year ended December 31, 1936 on Form 10-K, as required by Rule KA2 adopted by the Commission pursuant to said Section 13 (b);

It is ordered, That pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said Rosetta Mines Company has so failed to comply with said provisions of said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with either provision of said Section or of any Rule or Regulation promulgated by the Commission under said Section, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Common Capital Stock on said San Francisco Mining Exchange; and

It is further ordered, That said Rosetta Mines Company appear before an officer of the Commission and show cause why the registration of said Common Capital Stock on said San Francisco Mining Exchange should not be suspended for a period not exceeding twelve months or withdrawn as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Howard A. Judy, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 17th day of November, 1937, at 10:00 A. M. at the regional office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3185; Filed, October 29, 1937; 12:45 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of October, 1937.

[File No. 2-2149]

IN THE MATTER OF METROPOLITAN PERSONAL LOAN COMPANY
STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant Metropolitan Personal Loan Company, of Allentown, Pennsylvania, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Metropolitan Personal Loan Company, of Allentown, Pennsylvania, be and the same hereby is suspended.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3184; Filed, October 29, 1937; 12:44 p. m.]

